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REMARKS

This amendment is in response to the Office Action of May 23, 2005 (and the remailing of the Office Action of August 12, 2005). Applicants respectfully request reconsideration and entry of the amendment. Claims 1, 6, 9, 13 and 14 have been amended, claims 20 and 21 have been withdrawn and no claims have been canceled.

Claims 1 to 19, 22 and 23 were rejected, and claims 20 and 21 are withdrawn from further consideration in the present application as being drawn to a non-elected invention.

The Examiner is requiring restriction to one of the following inventions under 35 U.S.C. 121: I) Claims 1 to 19, 22 and 23 drawn to a composition; and II) Claims 20 and 21 drawn to a process of sterilizing a medical device. In a telephone conversation with Applicants' representative, Frank Smith, on March 15, 2005, a provisional election with traverse was made to prosecute the invention of group I. Applicants affirm the election of Group I, without traverse.

Claim 9 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that there is no antecedent basis for "radiation stabilizing additive". Specifically the Examiner did not consider "radiation stabilizing additive," and "radiation stable additive" to have the same meaning.

Claim 9 has been amended to correct a typographical error and state "radiation stable additive", for which there is antecedent basis in claim 1. Applicants respectfully submit that this overcomes the rejection of claim 9 under 35 U.S.C. 112, second paragraph. Applicants therefore respectfully request that the rejection of claim 9 be reconsidered and withdrawn.

Claim 6 has been amended to correct a minor typographical error. Applicants respectfully submit that no new matter has been entered by the amendment.

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Claims 1 to 8, 13 to 19, 21 and 22 were rejected under 35 U.S.C. 102(b) as anticipated by WO 00/26275.

Claim 1 has been amended to include additional limitations on the composition of the "ionizing radiation stable additive." Applicants submit that the amended claim 1 is now allowable since WO 00/26275 does not include this limitation. Applicants also submit that claims 2 to 8, and claims 10 to 12, which depend, or ultimately depend, from claim 1 are therefore also now allowable. Claims 13 and 14 have also been amended to include additional limitations on the composition of the "ionizing radiation stable additive." Applicants submit that claims 13 and 14 are now allowable.

Applicants respectfully submit that claim 21 was withdrawn from the instant application as being drawn to a non-elected invention. Applicants also respectfully point out to that if the examiner intended to reject claim 22, but incorrectly identified it as claim 21, the amendment to claim 1 would also place claims 22 and 23, which depend or ultimately depend from claim 1, in condition for allowance.

Since the reference does not teach each and every element of Applicants' invention, Applicants respectfully request that the rejection of claims 1 to 8, 13 to 19, 21 and 22 under 35 U.S.C. 102(b) be reconsidered and withdrawn.

Claims 1 to 19 and 22 and 23 were also rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/26275 in view of 4,880,850 or EP439763. The Examiner stated that WO 00/26275 suggests adding stabilizing additives to the block copolymer, but does not suggest the applicant's gamma stable additives. The Examiner further stated that 4,880,850 teaches that 2-methyl-2,4-pentandiol (hexylene glycol), is an appropriate stabilizer for polycarbonates and that EP439763 teaches that other species are stabilizers for polyestercarbonates. The Examiner concluded that it would have been obvious to utilize any of the stabilizers in 4,880,850 or EP438763 with the block copolymer to improve ionizing radiation resistance.

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Applicants respectfully disagree and submit that the Examiner has failed to make out a *prima facie* case of obviousness. Applicants respectfully disagree with the Examiner's conclusion. WO 00/26275 does not suggest the surprising reductions in yellowness achieved by polyarylestercarbonate block copolymer compositions containing resorcinol. Applicants' data in Figures 2 and 3 shows that polyarylestercarbonate block copolymer compositions containing resorcinol (even when present in amounts as low as 4% and without any gamma stable additive present) can yield greater than 30% yellowness improvement over a polycarbonate composition at 75 kGy radiation exposure. Without having prior knowledge of that surprising improvement in yellowness, there would be no motivation by one skilled in the art to combine polyarylestercarbonate compositions containing resorcinol with ionizing radiation stable additives like those described in 4,880,850 and/or EP438763 to achieve the results obtained by the Applicants. Furthermore, one skilled in the art of using ionizing stable additives, such as hexylene glycol, with polycarbonate compositions to improve yellowing, would not expect the surprisingly greater percentage improvement achieved by the Applicants for polyarylestercarbonate compositions containing resorcinol with hexylene glycol (for example 54% at 50 kGY versus 30% for polycarbonate at 50 kGY (see the data at Figures 4 and 5)). Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claims 1 to 19 and 22 and 23 under U.S.C 103(a).

The examiner is invited to telephone Applicants' attorney if it is deemed that a telephone conversation will hasten prosecution of the application.

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CONCLUSION

Applicants respectfully request reconsideration and allowance of each of the objected and rejected claims, claims 1 to 19, 22 and 23. Applicants respectfully request allowance of claims 1 to 19, 22 and 23, the claims currently pending.

Respectfully submitted:
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